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[additional counsel next page]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
ROBERT T. MATSUI FEDERAL COURTHOUSE

CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

Case No.: 2:20-cv-02482-WBS-AC

Plaintiff,

v.

KATHLEEN ALLISON, in her official capacity as Secretary of the California Department of Corrections and Rehabilitation

ERICA A. MAHARG'S DECLARATION IN
SUPPORT OF CALIFORNIA
SPORTFISHING PROTECTION
ALLIANCE'S OPPOSITION TO
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT

Judge: Hon. William B. Shubb

Date: October 17, 2022

Time: 1:30 p.m.

Courtroom: 5

Action Filed: Jan. 7, 2021

Trial Date: April 18, 2023

COUNTY OF AMADOR, a public agency
of the State of California

Plaintiff,

v.

KATHLEEN ALLISON in her official capacity as Secretary of the California Department of Corrections and Rehabilitation; PATRICK COVELLO in his official capacity of Warden of California Department of Corrections and Rehabilitation Mule Creek State Prison.

Defendants

1 JASON FLANDERS (Bar No. 238007)
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2 ERICA MAHARG (Bar No. 279396)
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6 Attorneys for Plaintiff
CALIFORNIA SPORTFISHING PROTECTION
7 ALLIANCE

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1 I, Erica A. Maharg, declare as follows:

2 1. I am an attorney, licensed to practice law in all courts
3 of the State of California. My firm and I serve as outside counsel
4 for Plaintiff California Sportfishing Protection Alliance (CSPA).
5 I have personal knowledge of the facts in this Declaration and, if
6 asked, could and would testify to the accuracy of these facts in a
7 court of law.

8 2. Attached as **Exhibit 1** to this Declaration, is a true and
9 correct copy of the *Declaration of Karen Ashby in Support of*
10 *Plaintiff's Motion for Summary Adjudication* filed on June 28,
11 2022 (Docket No. 45-4).

12 3. Attached as **Exhibit 2** to this Declaration is a true and
13 correct copy of relevant excerpts of the August 19, 2022 deposition
14 transcript of Paul A. Orta.

15 4. Attached as **Exhibit 3** to this Declaration is a true and
16 correct copy of relevant excerpts of the August 16, 2022 deposition
17 transcript of Gregor Larabee.

18 5. Attached as **Exhibit 4** to this Declaration is a true and
19 correct copy of the Inspection Report for an inspection of Mule
20 Creek State Prison conducted by the U.S. Environmental Protection
21 Agency on November 19, 2020. Defendants produced Exhibit 4 during
22 discovery in this matter, and it is digitally signed by Grant
23 Scavello, the author of the Inspection Report.

24 6. Attached as **Exhibit 5** to this Declaration is a true and
25 correct copy of the Regional Board's February 14, 2018 *Water Code*
26 *Section 13267 Order (ORDER) for Technical and Monitoring Reports*
27 *and Notice of Violation for Illegal Discharge to Surface Water and*

1 *Non-Compliance with the Construction Storm Water Permit, California*
2 *Department of Corrections-Mule Creek State Prison, Amador County*
3 correspondence. CSPA received this document from the Central Valley
4 Regional Water Quality Control Board ("Regional Board") pursuant to
5 a California Public Records Act request.

6 7. Attached as **Exhibit 6** to this Declaration is a true and
7 correct copy of the Regional Board's August 6, 2020 *Water Code 13383*
8 *Order to Monitor Discharges to Surface Water; California Department*
9 *of Corrections, WDID#:5S03M2000307, Amador County correspondence is*
10 *attached.*

11 8. Attached as **Exhibit 7** to this Declaration, is a true and
12 correct copy of the Regional Board's December 22, 2020 Water Code
13 Section 13383 Order to Monitor Discharges to Surface Water;
14 California Department of Corrections and Rehabilitation-Mule Creek
15 State Prison; WDID#:5S03M2000307 correspondence. Defendants
16 produced this document during discovery in this matter.

1 1. I searched based on the Facility's WDID (5S03M2000307), which is
2 a unique identification number assigned to each permittee.

3 10. Attached as **Exhibit 9** is a true and correct copy of a
4 Notice of Discharge to the Regional Board dated February 3, 2021.
5 I downloaded this document from SMARTS, as described in Paragraph
6 9.

7 11. Attached as **Exhibit 10** is a true and correct copy of a
8 Notice of Discharge to the Regional Board dated March 6, 2021 is
9 attached. I downloaded this document from SMARTS, as described in
10 Paragraph 9.

11 12. Attached as **Exhibit 11** is a true and correct copy of a
12 Notice of Discharge to the Regional Board dated March 11, 2021 is
13 attached. I downloaded this document from SMARTS, as described in
14 Paragraph 9.

15 13. Attached as **Exhibit 12** is a true and correct copy of a
16 Notice of Discharge to the Regional Board dated March 19, 2021 is
17 attached. I downloaded this document from SMARTS, as described in
18 Paragraph 9.

19 14. Attached as **Exhibit 13** is a true and correct copy of a
20 Notice of Discharge to the Regional Board dated October 25, 2021 is
21 attached. I downloaded this document from SMARTS, as described in
22 Paragraph 9.

23 15. Attached as **Exhibit 14** is a true and correct copy of a
24 Notice of Discharge to the Regional Board dated November 9, 2021 is
25 attached. I downloaded this document from SMARTS, as described in
26 Paragraph 9.

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1 16. Attached as **Exhibit 15** is a true and correct copy of a
2 Notice of Discharge to the Regional Board dated December 9, 2021 is
3 attached. I downloaded this document from SMARTS, as described in
4 Paragraph 9.

5 17. Attached as **Exhibit 16** is a true and correct copy of a
6 Notice of Discharge to the Regional Board dated March 16, 2022 is
7 attached. I downloaded this document from SMARTS, as described in
8 Paragraph 9.

9 18. Attached as **Exhibit 17** is a true and correct copy of a
10 Notice of Discharge to the Regional Board dated March 22, 2022 is
11 attached. I downloaded this document from SMARTS, as described in
12 Paragraph 9.

13 19. Attached as **Exhibit 18** is a true and correct copy of a
14 Notice of Discharge to the Regional Board dated April 11, 2022 is
15 attached. I downloaded this document from SMARTS, as described in
16 Paragraph 9.

17 20. Attached as **Exhibit 19** is a true and correct copy of a
18 Notice of Discharge to the Regional Board dated September 20, 2022
19 is attached. I downloaded this document from SMARTS, as described
20 in Paragraph 9.

21 21. Attached as **Exhibit 20** is a true and correct copy of a
22 Notice of Discharge to the Regional Board dated November 2, 2022 is
23 attached. I downloaded this document from SMARTS, as described in
24 Paragraph 9.

25 22. Attached as **Exhibit 21** is a true and correct copy of the
26 Clarification to the Comment Letter Dated 11 February 2022;
27 California Department of Corrections and Rehabilitation-Mule Creek

1 State Prison; WDID#5S03M2000307, Amador County correspondence, from
2 Elizabeth Lee, Regional Board. I downloaded this document from
3 SMARTS, as described in Paragraph 9.

4 23. Attached as **Exhibit 22** is a true and correct copy of the
5 Regional Board's December 7, 2020 *Review of Revised Storm Water*
6 *Investigation Findings Report, California Department of Corrections*
7 *and Rehabilitation, Mule Creek State Prison, Amador County.*
8 Defendants produced this document during discovery in this matter.

9 24. Attached as **Exhibit 23** is a true and correct copy of the
10 Mule Creek State Prison's February 1, 2021 *Mule Creek State*
11 *Prison (MCSP) Non-Stormwater Discharge Report; California Department*
12 *of Corrections and Rehabilitation-Mule Creek State Prison,*
13 *WDID#:5S03M2000307, Amador County.* Defendants produced this
14 document during discovery in this matter.

15 25. Attached as **Exhibit 24** is a true and correct copy of the
16 Regional Board's June 29, 2021 *Comments to the Non-Storm Water*
17 *Discharge Report; California Department of Corrections and*
18 *Rehabilitation - Mule Creek State Prison, WDID#:5S03M2000307,*
19 *Amador County.* Defendants produced this document during discovery
20 in this matter.

21 26. Attached as **Exhibit 25** is a true and correct copy of
22 Appendix 10 of SHN Engineers & Geologists, *Revised Stormwater*
23 *Collection System Investigation Report of Findings, August 2018,*
24 revised October 2019. Defendants produced this document during
25 discovery in this matter.

26 27. Attached as **Exhibit 26** is a true and correct copy of
27 Appendix 23 SHN Engineers & Geologists, *Revised Stormwater*
28

1 *Collection System Investigation Report of Findings*, August 2018,
2 revised October 2019. Defendants produced this document during
3 discovery in this matter.

4 28. Attached as **Exhibit 27** is a true and correct copy of
5 relevant excerpts of the Second Quarter August 1, 2022 Report. I
6 downloaded this document from SMARTS, as described in Paragraph 9.

7 29. Attached as **Exhibit 28** is a true and correct copy of
8 relevant excerpts of the *Stormwater Master Plan Mule Creek State*
9 *Prison*, March 7, 2018. Defendants produced this document during
10 discovery in this matter.

11 30. Attached as **Exhibit 29** is a true and correct copy of the
12 August 1, 2022 *Expert Opinion Report of Robert W. Emerick, Ph.D.,*
13 P.E. CSPA produced this report to Defendants, as required by the
14 Scheduling Order in this matter.

15 31. Attached as **Exhibit 30** is a true and correct copy of
16 relevant excerpts of the September 30, 2022 deposition transcript
17 of Dr. Robert Emerick.

18 32. Attached as **Exhibit 31** is a true and correct copy of the
19 Regional Board's September 23 2020 *Notice of Violation for Sanitary*
20 *Sewer Overflows, California Department of Corrections-Mule Creek*
21 *State Prison, Amador County*. This document was produced by the
22 County in discovery in this matter.

23 33. Attached as **Exhibit 32** is a true and correct copy of
24 relevant excerpts of the September 16, 2022 deposition transcript
25 of Kenneth William Croyle.

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1 I swear under penalty of perjury under the laws of the State
2 of California and the United States that the foregoing is true and
3 correct. This declaration was executed on December 12, 2022 in
4 Flagstaff, Arizona.

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Erica A. Maharg

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